THE HON'BLE SRI JUSTICE A. GOPAL REDDY

W.P.NO.3689 OF 1995

Date: 13.03.2006

Between:

J. Munikrishnaiah

…. Petitioner

and

District Judge-cum-Chairman, Estates Abolition Tribunal, Chittoor & others.

… Respondents

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O R D E R :

Vendor of the writ petitioner viz. Kalluri Jayamma, w/o Venkata Swamy filed an application in S.R.No.24/15(1)/64, under Section 15(1) of the Estate Abolition Act, 1948 (for short 'the Act') before the Assistant Settlement Officer. The same was dismissed on 30.05.1964, observing that Jayamma has to file a claim petition under Section 11(a) of the Act, as herself and her husband acquired occupancy rights in the said land. While the matter stood thus, K. Jagannadam, father of the fourth respondent, and two others filed an application in S.R.No.6/15(1)/69/CTR, under Section 15(1) of the Act, by impleading Kalluri

Venkata Swamy and four others, claiming patta over the land admeasuring Acs.2.72 cents in survey No.4/8 of Kalluri village. The said application was dismissed on 20.06.1970. Aggrieved thereby, Kalluri Jagannadham and others filed E.A.T.S.No.16 of 1970 on the file of the District Judge, Chittoor. While allowing the said appeal, by an order dated 12.09.1974, the District Judge remanded the matter to the Settlement Officer, for its consideration afresh. On such remand, the Settlement Officer passed an *ex parte* order dated 30.12.1980 in favour of K. Jagannadham and others, granting patta vide S.R.O.No.15/1/80. Complaining that she was not heard by the Settlement Officer, the petitioner's vendor viz. Jayamma filed an application in S.R.No.6/15(1)/69 for restoration of the case. Consequently, through the order dated 21.01.1987, the matter was restored. However, ultimately, the Settlement Officer dropped the proceedings by an order dated 19.06.1990, on the ground that all the entries are bogus and the pattas granted in favour of Jagannadham and others have become final. The petitioner challenged the said order in E.A.T.A.S.No.1 of 1990 before the Estate Abolition Tribunal-cum-District Judge, Chittoor. Subsequently, the same was dismissed on 07.10.1994, on the ground that even though the petitioner alleged to have purchased the land from Kalluri Jayamma in 1969, he had never participated in any earlier proceedings and hence he has no *locus standi* to file an appeal. Aggrieved thereby, the petitioner filed the present writ petition.

Sri M. Venkata Ramana Reddy, learned counsel for the petitioner, submits that since both the parties in the writ petition are ryots claiming kudivaram rights, they can agitate their respective claims, if any, only under Section 56(1) (c ) of the Act. According to him, the enquiry made by the Settlement Officer under Section 15(1) of the Act is without jurisdiction, therefore, the said order and the consequential order passed in the appeal are liable to be set aside. While placing reliance upon the Judgment of Full Bench of this Court in *T.Munuswami Naidu v. R. Venkata Reddy*, the learned counsel contends that the Settlement Officer is empowered to decide the question 'as to who the lawful ryot is in respect of a holding' for all the purposes of the Abolition Act, including the one of granting ryotwari pattas under Section 11 of the Act.

The learned counsel for the respondents, on the other hand, contends that in the absence of any such application by either of the parties, the Settlement

Officer cannot make an enquiry under Section 56(1)(c ) of the Act.

It is not in dispute that the order passed by the Settlement Officer granting patta in favour of Jagannadham, father of the fourth respondent, and two others in S.R.O.NO.15/1/80, dated 30.12.1980 has not been challenged, consequently, the said order attained its finality. It is also not in dispute that on an application filed by the vendor of the petitioner, the matter was restored, however, the Settlement Officer dropped the proceedings, confirming the order dated 30.12.1980.

Now the main grievance of the petitioner is that he is in actual possession and enjoyment of the land in question. The learned counsel for the petitioner submits that since both the parties are claiming rights over a particular property, the only remedy available for them is to approach the Settlement Officer under Section 56(1)(c ) of the Act. In this connection, he placed reliance upon the Judgment of the Full Bench of this Court in *T. Munuswami Naidu's case* (cited supra), wherein it has been held that the applicability of Section 56(1)(c ) of the Act cannot be confined only to sub-clauses (b) and (a) of sub-sections (1) of Section 56 read with Section 55 of the Act. It can be extended beyond so as to include within its ambit the matter dealt with under Section 11 of the Act also. It has also been held that the Settlement Officer is empowered to decide the question who the lawful ryot is in respect of any holding in whatever context the dispute arises under the Abolition Act.

In view of the ratio laid down by this Court in the Judgment referred to above, the petitioner, who claims to have been in possession of the property, can always approach the Settlement Officer, under Section 56(1)(c ) of the Act, by making a proper application On making such an application, it is for the Settlement Officer to enquire into the same, in the light of the Judgment cited supra, and pass appropriate orders.

With the above said observations, the writ petition is dismissed. There shall be no order as to costs.

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13.03.2006

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